

**Court of Appeals, State of Michigan**

**ORDER**

People v Alan Craig Wood

Docket No. 265841

LC No. 2005-201160-FH

Brian K. Zahra  
Presiding Judge

Richard A. Bandstra

Donald S. Owens  
Judges

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The Court orders that the motion for reconsideration is GRANTED, and this Court's opinion issued March 29, 2007 is hereby VACATED. A new opinion is attached to this order.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 17 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALAN CRAIG WOOD,

Defendant-Appellant.

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UNPUBLISHED

March 29, 2007

No. 265841

Oakland Circuit Court

LC No. 05-201160-FH

Before: Zahra, P.J., and Bandstra and Owens, JJ.

MEMORANDUM.

Defendant was convicted by a jury of second-degree home invasion, MCL 750.110a(3), and receiving or concealing stolen property less than \$200, MCL 750.535(5). He was sentenced as a fourth habitual offender, MCL 769.12, to five to 30 years in prison for home invasion and 93 days in jail for receiving or concealing stolen property. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that there was insufficient evidence to convict him of the charged offenses. “[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). The prosecutor presented sufficient evidence of home invasion through the testimony of the complaining witness, who stated that he observed defendant break into his home and leave with stolen items. Moreover, the presence of items in defendant’s home from previous break-ins was sufficient to establish the receiving or concealing offense. Some of the complaining witness’ statements were in conflict with each other, calling into question his credibility. However, a prosecutor “need only convince the jury ‘in the face of whatever contradictory evidence the defendant may provide,’” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000), quoting *People v Konrad*, 449 Mich 263, 273 n 6; 536 NW2d 517 (1995), and factual conflicts are to be viewed in a light favorable to the prosecution. *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004). Moreover, the issue of credibility was rightfully determined by the jury. *Id.* at 561. We find no basis for disturbing the jury verdict.

Defendant next argues that his sentence of five to 30 years in prison constituted cruel and unusual punishment. He acknowledges that the range for his minimum sentence was properly calculated to be 36 to 142 months. Because defendant’s minimum sentence was within the

statutory minimum range, “this Court must affirm [under MCL 769.34(10)] unless the trial court erred in scoring the guidelines or relied on inaccurate information.” *People v McLaughlin*, 258 Mich App 635, 670; 672 NW2d 860 (2003). Moreover, a sentence within the calculated range is presumptively proportionate. *People v Williams*, 198 Mich App 537, 543; 499 NW2d 404 (1993). Defendant’s perception that his convictions were unreliable does not overcome this presumption. Sentences that are not disproportionate are not cruel or unusual. *People v Colon*, 250 Mich App 59, 66; 644 NW2d 790 (2002).

We affirm.

/s/ Brian K. Zahra  
/s/ Richard A. Bandstra  
/s/ Donald S. Owens